

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

JAN 16 2008

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

CHANCE WORLD TRADING E.C.,  
Kingdom of Bahrain,

Plaintiff - Appellant,

v.

HERITAGE BANK OF COMMERCE, a  
California corporation,

Defendant - Appellee,

No. 06-15207

D.C. No. CV-03-05474-RMW

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Ronald M. Whyte, District Judge, Presiding

Argued and Submitted December 7, 2007  
San Francisco, California

Before: B. FLETCHER, TASHIMA, and RAWLINSON, Circuit Judges.

Plaintiff-Appellant Chance World Trading (Chance) appeals the entry of summary judgment in favor of Defendant-Appellee, Heritage Bank of Commerce (Heritage), on Chance's aiding and abetting claim against Heritage. The district

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

court correctly concluded that no material issue of fact exists as to Heritage's knowledge that funds withdrawn from its accounts were being used for an improper purpose. With no knowledge of the underlying tortious action, no liability under an aiding and abetting theory can exist. *See Casey v. U.S. Bank Nat'l Ass'n*, 127 Cal. App. 4th 1138, 1144 (2005) ("Liability may be imposed on one who aids and abets the commission of an intentional tort if the person . . . knows the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other to so act . . .") (citations omitted).

AFFIRMED.